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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/614,264

07/03/2003

Michael S. Rodgers

03353.49547

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07/11/2005

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EXAMINER

NGUYEN, CHI Q

ART UNIT

PAPER NUMBER

3635

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|---------------------------------------|--|
| Office Action Summary | Application No. 10/614,264 | Applicant(s) RODGERS ET AL. | |
| | Examiner Chi Q. Nguyen | Art Unit 3635 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 11-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office action is in response to the applicant's application filed on 7/3/2003.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121.

I. Claims 1-10, drawn to an apparatus of a poured in place horizontal slab, classified in class 52, subclass 309.9.

II. Claims 11-17, drawn to method of constructing a poured in place components utilizing a lightweight concrete including a step of removing the form wall when the concrete has cured, classified in class 249.

The inventions I and II are related as process of making and product made. The inventions are distinct if either of the following can be shown:

(1) that the process as claimed can be used to make other and materially different product or

(2) that the product as claimed can be made by another and materially different process.

For instant case, the apparatus claims could be made by a method different than that group II such as constructing a wall system by using and installing a plurality of prefabricated concrete wall panels securing along support stud members.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purpose as indicated is proper.

A telephone call was made to Mr. Glenn William request an oral election on 7/1/2005 and the election was made to group I (claims 1-10) without traverse. And claims 11-17 are none elective claims and being withdrawn from consideration.

Claim Objections

Claims 1-10 are objected to because of the following informalities: in regard claim 1, the cited limitation "a plurality of spaced-apart horizontal support members" should

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read as "a plurality of horizontally spaced-apart support members"? Appropriate correction is required.

Claim 2 is objected to because of the following informalities: the phrase "thorough" should be read as –thorough-. Appropriate correction is required.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-8, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Graulich (US 5,522,194).

In regard claims 1, and 5, Graulich teaches a structural wall system comprising a plurality of spaced apart horizontal support members 4, each having a lower region, and a retaining layer system further comprising a lath 2 extending across and attached to the lower region to form a segmented form, the lath 2 having a plurality of aperture which inherently allow small amount of the concrete slurry to exude through said lath (see fig. 1). Since Graulich teaches the similar structures of the applicant's claimed invention thus it capable of performing the same function such as to simultaneously retain a significant amount of lightweight concrete slurry poured within said segmented form, and support said lightweight concrete during curing to form the horizontal slab.

In regard claim 2, Graulich teaches the claimed invention as stated wherein said retaining layer system further comprises a barrier 18 disposed between the lath 2, concrete insulation.

In regard claims 4, and 10 Graulich teaches the claimed invention as stated wherein a covering 1 is attached to an upper surface of the lightweight concrete (fig. 1).

In regard claim 6, Graulich teaches the claimed invention as stated wherein the layer system further comprises a form wall 14 extends across the plurality of support members on at least one the outer regions opposite the latch 2 (figure 1).

In regard claim 7, Graulich teaches the claimed invention as stated wherein a barrier 18 is disposed between the latch and the concrete.

In regard claim 8, Groulich teaches the claimed invention as stated wherein the barrier inherently has insulative qualities.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graulich '194 in view of Egan (US 6,745,531).

In regard claims 3, and 9, Graulich teaches the claimed invention as stated except for an insulative material is positioned adjacent to the support members and in contact with at least one surface of the lightweight concrete. Egan teaches a wall system comprising a plurality of horizontal spaced support members 50, 51, a lightweight concrete layer 12, a insulative material layer 11 positioned adjacent to the support members 50, 51, and in contact with lightweight concrete layer 12 (see figure 1). At the time of the invention, it would have been obvious to one having ordinary skill in the art to combine Graulich with Egan for an insulative layer being added in between

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the support members and the lightweight concrete layer. The motivation for doing so would have been to enhance the thickness and provide a better insulation for the wall system.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Spencer, Phillips, Mandish, Cottier, Messenger, Dunn, Coombs, Nelson, Smith, Leblang, and Schneller teach wall system.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (571) 272-6842. The examiner's right fax number is (571) 273-6847.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairdirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

7/1/05

CN
CQN

Baril Keth
PRIMARY EXAMINER 7/6/05